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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,007	07/21/2008	Larry D. Wolfe	06011	6127
9979	7590	03/12/2010	EXAMINER	
KRATZ, QUINTOS & HANSON, LLP Greater Beneficial Union of Pittsburgh Building 4232 Brownsville Road Suite308 Pittsburgh, PA 15227				MCGUTHRY BANKS, TIMA MICHELE
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
03/12/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/583,007	WOLFE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	TIMA M. MCGUTHRY-BANKS	1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ .                                                           | 6) <input type="checkbox"/> Other: ____ .                         |

## **DETAILED ACTION**

### ***Status of Claims***

Claims 1-5 are as originally presented.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Okana et al (US 4,541,617), Zebrowski (US 2004/0083851 A1) and Nicholson (US 4,208,388).

Applicant admits as prior art adding lime to molten metal in a steelmaking vessel via oxygen lances (page 2). Further, the independent claim is written in Jepson format, which is taken as an implied admission that the subject matter of the preamble is the prior art work of another; see *In re Fout* (213 USPQ 532, CCPA 1982). However, the admitted prior art does not teach adding from above as in Claim 1, the particle size of the lime as in Claim 1 or the flow aid material as in Claims 1, 4 and 5.

Regarding adding from above, Okane et al Fig. 1 teaches a lance structure for oxygen blowing. The blowing includes adding flux such as dolomite and quicklime in powdered form (column 1, lines 22-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add oxygen and flux from above in the process of the admitted prior art as taught by Okane et al, since Okane et al teaches that this type of blowing promotes deposphorization and desulfurization (column 1, lines 36 and 37). Regarding Claims 2 and 3, Okane et al teaches that dolomite and quicklime (high calcium lime) are types of lime materials.

Regarding the particle size, Zebrowski teaches a method of removing sulfur from molten iron using a calcium compound (abstract). The compounds include CaO. The mesh size is 14-500 mesh [0018]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the particle size taught by Zebrowski in the process of the admitted

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prior art, since Zebrowski teaches that the particle size is selected to provide the necessary activity or reactivity with the sulfur in the molten iron; when the particle size is too large it results in poor desulfurization efficiencies [0018].

Regarding the flow aid, Nicholson teaches enhancing the flowability of lime by treating with polymethylhydrogensiloxanes and polydimethylsiloxanes (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the flow aid of Nicholson in the process of the admitted prior art, since Nicholson teaches enhancing flowability for long periods of time and exposure to high humidity (column 2, lines 26-30).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMA M. MCGUTHRY-BANKS whose telephone number is (571)272-2744. The examiner can normally be reached on M-F 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Wyszomierski/  
Primary Examiner  
Art Unit 1793

/T. M. M./  
Examiner, Art Unit 1793  
12 March 2010